

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM SMITH,	:	
	:	Civil No. 1:01-CV-0817
Plaintiff,	:	
	:	(Judge William W. Caldwell)
v.	:	
	:	(M.J. Malachy E. Mannion)
JAMES MORGAN, et al.,	:	
	:	Filed via Electronic Case Filing
Defendants.	:	

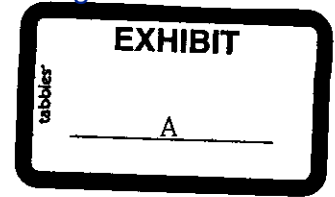
**SUPPORTING DOCUMENT TO THE CORRECTIONS  
DEFENDANTS' STATUS REPORT REGARDING  
THE COURT'S APRIL 8, 2004 ORDER**

Letter to Mr. Charles W. Rubendall, II, Esquire  
dated April 22, 2004.....Exhibit A.

Respectfully submitted,  
Office of General Counsel

/s John J. Talaber  
John J. Talaber  
Assistant Counsel  
PA Department of Corrections  
55 Utley Drive  
Camp Hill, PA 17011  
(717) 731-0444  
Attorney Id. No. 83279

Dated: April 22, 2004



PENNSYLVANIA DEPARTMENT OF CORRECTIONS  
GOVERNOR'S OFFICE OF GENERAL COUNSEL  
55 UTLEY DRIVE  
CAMP HILL, PENNSYLVANIA 17011  
(717) 731-0444

April 22, 2004

**VIA HAND DELIVERY**

Mr. Charles W. Rubendall II, Esquire  
Keefer, Wood, Allen and Rahal, LLP  
210 Walnut Street  
Harrisburg, PA 17108

Re: *Smith v. Weaver, et al.*  
USDC-MD, Civil Action No. 01-CV-00817  
Medical Records for Plaintiff Kim Smith

Dear Mr. Rubendall:

In compliance with the Court's April 8, 2004 order, enclosed please find a copy of the Department of Correction's ("Department") Medical Records for inmate Kim Smith from April 24, 1995, until April 2, 2004.

First, please be advised that while the Court's order directs the "defendants" to produce the records, the custodian of the aforementioned documents is not a defendant in the above-captioned civil rights action. Further, you should be aware that Mr. Smith was granted parole on February 17, 2004, and is no longer incarcerated at the State Correctional Institution at Coal Township ("SCI-Coal Township") but instead resides in Pittsburgh, Pennsylvania. However, in the interest of judicial economy, and in recognition of the laudable goals of United States District Court for the Middle District ("Middle District") Pro Bono Program, the Department is treating the Court's order as directed to the custodian of the records, who in this case is SCI-Coal Township Medical Records Assistant Patricia Karycki. I have enclosed Ms. Karycki's declaration attesting to the authenticity of the Medical Records she maintains at SCI-Coal Township.

Mr. Rubendall Letter  
April 22, 2004  
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Second, please note that while I am attorney of record in the above-captioned matter for twenty-one (21) of the Department's employees named as Defendants, I am also authorized to represent the Department's interest for purposes of releasing the documents involved in the Court's April 8, 2004 order. I bring to your attention the following facts, as they relate to documents not disclosed with the Department's copy of Mr. Smith's Medical Records.

On April 15, 2004, I contacted Mr. Smith at a Community Corrections Center in Pittsburgh, and discussed with him the April 8, 2004 order. I also asked Mr. Smith to provide me with a signed *Authorization for Release of Information* regarding the documents contained in the Department's Medical Record. Please note that Mr. Smith limited the disclosure of his mental health records to those "dealing with Hep. C treatment from 9-2000 to 6-2001." I have enclosed a copy of Mr. Smith's release with this letter. Accordingly, I removed approximately sixty (60) pages of mental health records that were outside Mr. Smith's aforementioned time period.

Further, in reviewing the materials in Mr. Smith's Medical Record, I discovered a document entitled, *Confidential- Administrative Transfer Individual Treatment Plan* dated December 19, 2000. I have removed the three (3) pages from the Medical Record, and I am consulting with Department staff to determine how the information contained in the document is utilized. If necessary, the Department may invoke the Executive Document's Privilege; otherwise, I will supplement the Department's disclosure by April 28, 2004.


Additionally, please note that Mr. Smith recently filed a "letter" with the Court concerning his Department of Correction's Medical Records; specifically, that the Department produce records beyond the year 2000. I have enclosed a copy of this letter for your convenience. This concern is moot as the Department is producing for you records that go beyond the year 2000 up to and including the end of March 2004.

Mr. Rubendall Letter  
April 22, 2004  
Page 3

Finally, the Department is disclosing this information to you, in your capacity as Pro Bono Chair for the Middle District, with the understanding that Medical Records will be released to a physician for evaluation of Mr. Smith's claims. In the event the case is deemed to have merit and a volunteer attorney is appointed, you are authorized to provide the Medical Records to the volunteer attorney. If and when that happens, the Department will provide the volunteer attorney with an invoice for reimbursement of the costs associated with producing the documents. Conversely, if counsel is not appointed for Mr. Smith, I ask that you please telephone me to arrange for our Office Messenger to retrieve the aforementioned documents from you, and the Middle District's Pro Bono program will not be charged for the costs of producing the documents.

If you have any questions or concerns, or require any additional information, please do not hesitate to contact me at (717) 731-0444.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'John J. Talaber', with a long horizontal flourish extending to the right.

John J. Talaber  
Assistant Counsel

JJT

Enclosures

cc: Kim Smith (First Class Mail w/o Medical Records)  
Robert G. Hanna, Jr., Esquire (First Class Mail w/o Medical Records)  
File (w/o Medical Records)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM SMITH,

Plaintiff,

v.

JAMES MORGAN, et al.,

Defendants.

Civil No. 1:CV-01-0817

(Judge William W. Caldwell)

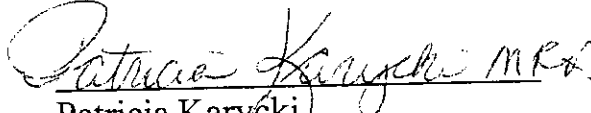
**UNSWORN DECLARATION OF PATRICA KARYCKI**

I, Patricia Karycki, pursuant to 18 Pa. C.S. §4904, state the following facts are true, correct, and based upon my personal knowledge:

1. I am employed by the Pennsylvania Department of Corrections ("Department") at the State Correctional Institution at Coal Township ("SCI-Coal Township") as a Medical Records Assistant.
2. As a Medical Records Assistant, I assist with the organization of medical records where case histories of all patients are classified and maintained; maintenance of adequate patient, disease surgery, and physician indices, analysis of medical records for completeness and accuracy to insure their applicability for patient treatment, research, and case study; and for compliance with facility, departmental, state and federal accrediting/certifying agency requirements.

3. The Department of Corrections requires that medical documents relating to a particular inmate be placed in a file called the inmate medical record. Generally included within the inmate medical record, are history and physical exam record, dental records, vision records, consultation notes, physician orders, progress notes. When an inmate is permanently transferred between correctional institutions, the inmate medical record and documents contained therein, are transferred with him or her.
4. I certify to the best of my knowledge, information, and belief that the attached documents, relating to inmate Kim Smith (CT-2162), were produced from records contained within his inmate medical record and:
  - a. were made at or near the time of the occurrence of the matters set forth by a person with knowledge of those matters; and
  - b. were kept in the course of the regularly conducted activities of the Department; and
  - c. are maintained by regularly conducted activities of the Department in the Inmate Medical Records Office.

Date: 4/1/04

  
Patricia Karycki  
Medical Records Assistant  
SCI-Coal Township

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KIM SMITH,	:	
Plaintiff	:	
	:	
vs.	:	CIVIL NO. 1:CV-01-0817
	:	(Judge Caldwell)
	:	
JAMES MORGAN, et al.,	:	
Defendants	:	

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On March 8, 2004, in connection with Plaintiff's motion for appointment of counsel, we ordered the defendants to file Plaintiff's medical records relevant to his Hepatitis C condition. Upon further reflection, the court believes a better procedure would be to require the defendants to submit the records to the lawyer responsible for coordinating the district court's pro bono appointments.

Accordingly, this 8th day of April, 2004, it is ordered that:

1. The order of March 8, 2004, is vacated.
2. Within twenty days of the date of this order, Defendants shall submit to the district court's pro bono coordinator all of

Plaintiff's medical records from 1995  
through 2000, including laboratory reports,  
relating directly or indirectly, to  
Plaintiff's Hepatitis C condition.  
Defendants need not file any records already  
supplied.

/s/William W. Caldwell  
William W. Caldwell  
United States District Judge



04/15/04 11:38 FAX 7310492

CHIEF COUNSEL

0062

## DC-ADM 003, Release of Information Procedures Manual

## Attachment D

DC-108

**PENNSYLVANIA DEPARTMENT OF CORRECTIONS**  
**AUTHORIZATION FOR RELEASE OF INFORMATION<sup>1</sup>**  
 (THE EMPLOYEE/INMATE SHALL CHECK AND INITIAL ALL BOXES THAT APPLY)

Medical/ Dental Records	<input checked="" type="checkbox"/>	Mental Health Records	<input checked="" type="checkbox"/>	Drug & Alcohol Treatment Records	<input type="checkbox"/>	HIV Information	<input type="checkbox"/>	Records (General)	<input type="checkbox"/>
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I, the undersigned, hereby give my consent for:  
 (name and address of facility)

John J. Talaber, Assistant Counsel  
Office of Chief Counsel  
PA. Dept. of Corrections  
55 Utley Drive  
Camp Hill, PA 17011

To release information to:

(name and address of requester)  
Charles W. Rubendall II, Esquire  
Keefe Wood Allen & Egan, LLP  
210 Walnut Street  
P.O. Box 11963  
Harrisburg, PA 17108

I hereby authorize the above named source to release or disclose information related to the above referenced records/information to the requester during the period beginning 1/1/95 and ending 3/2004. The information being requested is: medical and mental health records

Authorization for disclosure is being given for the purpose of:

Court order

Disclosure of medical/dental information may contain all aspects of my treatment and hospitalization, including psychological and psychiatric information, drug and/or alcohol information, as well as information regarding Acquired Immunodeficiency Syndrome (AIDS) and tests or treatment for Human Immunodeficiency Virus (HIV).

Disclosure for mental health records pertains to treatment, hospitalization, and/or outpatient care provided to me for the period listed above. I understand that my record may contain information regarding all aspects of my treatment and hospitalization, including psychological and psychiatric information, drug and/or alcohol information as well as information regarding Acquired Immunodeficiency Syndrome (AIDS) and tests or treatment for Human Immunodeficiency Virus (HIV). Authorizations for release of mental health records expire in 30 days.

Disclosure of HIV related information is information about whether the patient has had a test for HIV, an HIV related illness or AIDS. HIV (Human Immunodeficiency Virus) is the virus that may cause or indicate AIDS or HIV infection.

Disclosure of general information is information contained in an inmate's DC-15. Generally, any communications from the inmate to the Department of Corrections and responses thereto, misconducts, and grievances.

In authorizing this disclosure, I explicitly waive any and all rights I may have to the confidential maintenance of these records, including any such rights that exist under local, state, and federal statutory and/or constitutional law, rule or order, including those contained in the Pennsylvania Mental Health Procedures Act, 1976, the Pennsylvania Drug and Alcohol Abuse Control Act, 1972, and the Confidentiality of HIV-Related Information Act, No. 148.

I understand that I have no obligation to permit disclosure of any information from my record and that I may revoke this authorization, except to the extent that action has already been taken, at any time by notifying the Medical Records Technician, Health Care Administrator, or Facility Manager. In any event, this authorization will expire 90 days after the date signed, with the exception of Mental Health records which have a 30 day expiration date, unless revoked prior to that time.

I understand that these records are the property of the Department of Corrections and that my authorization for their release does not require the Department of Corrections to release these records. It is understood by the above requesting facility that if the requested information's confidentiality is protected by Federal Regulations that bar secondary dissemination or re-disclosure, the providing facility will provide a statement to that effect.

Furthermore, I will indemnify and hold harmless the Pennsylvania Department of Corrections, and its employees and agents, for any losses, costs, damages, or expenses incurred because of releasing information in accordance with this authorization.

John J. Talaber  
 Employee/Inmate Signature

6463M  
 Employee ID/  
 Inmate DC Number

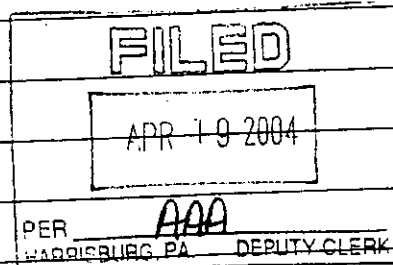
4-15-04  
 Date

Signature of Witness

2-CO-1E-07  
only mental health records dealing with Hep C  
treatment from 7-2000 to 6-2001

Kim Smith  
1/2 Renewal Resident Mail  
P.O. Box 23475  
Toln. Pa 15222-6475

April 14, 2004



Honorable Judge  
William W. Caldwell  
Office of the Clerk  
U.S. District Court  
Middle District of Pa.  
U.S. Courthouse  
228 Walnut St  
P.O. Box 983  
Harrisburg, Pa 17108

Re: Civil No. 1:CV-01-0817, order  
dated April 8, 2004

Dear Hon. Judge Caldwell:

It is respectfully request that the above  
listed order includes 8001 thru 2003  
as it is in case 8001 there August 2001  
is when petitioner sustained injury  
to his liver there the case 8001  
termination, and the statement

in April 2001, in which, every that next petitioner was given his usual load increase consistently to its present state. The Hep C treatment was not to make the condition worse, as the medical records of of 2001 will show.

Also at present petitioner is now being treated at the Center for Liver Disease, UPMC Polk Clinic<sup>340</sup> 5th Ave, 3rd Floor, Pgh Pa 15213. Dr Rabinovity. Petitioner is also scheduled for a liver CT Scan, and a Ultrasound Guided Liver Biopsy and the findings and report maybe required, so would you please amend your April 2, 2004 order to include the years 2001 thru 2003 medical records, and it is also request that you issue a order to Dr Rabinovity at the above address to file a report of his findings to the court and pro bono counsel.

As it is the defendant only turn over part of the medical records to this doctor not the records of the beginning of Hep C treatment at S.C.I. Smithfield. And all labs in which all blood that was sent should also be requested from the labs.

This is submitted as a formal request  
to amend the April 8, 2004 order to  
include the above listed request.

Respectfully Submitted

4-14-04

Kim Smith

### Certificate of Service

I certify that on 4-14-04 a place in the  
U.S. Postal Service mail box this letter to  
be forwarded to the below listed parties  
by way of first class mail. The foregoing is  
true and correct to the best of my knowledge  
and understanding and subjected to the penalties  
provided for 28 U.S.C. 1746

Office of the Clerk U.S. District Court  
for the Middle District

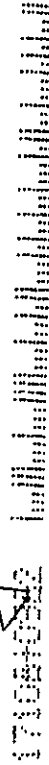
Kim Smith

4-14-04

King Smith  
 36 Natural Resident Mail  
 P.O. Box 923475  
 Dallas, TX, 75222-6475-



Office of the Clerk  
 Mary Jo Asanza  
 United States District Court  
 Middle District of Pennsylvania  
 U.S. Courthouse  
 228 Walnut St.  
 P.O. Box 923  
 Harrisburg, PA 17108



Respectfully submitted,  
Office of General Counsel

BY: s/ John J. Talaber  
Assistant Counsel  
Department of Corrections  
Office of Chief Counsel  
55 Utley Drive  
Camp Hill, PA 17011  
Phone (717) 731-0444  
Fax (717) 975 2217  
Jtalaber@state.pa.us  
PA 83279

Dated: April 22, 2004

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FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM SMITH,	:	
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v.	:	
	:	(M.J. Malachy E. Mannion)
JAMES MORGAN, et al.,	:	
	:	Filed via Electronic Case Filing
Defendants.	:	

**CERTIFICATE OF SERVICE**

I undersigned hereby certifies that a copy of the *Supporting Document to the Corrections Defendants' Status Report Regarding the Court's April 8, 2004 Order* was served upon the person(s) in the manner indicated below.

Service by first-class mail  
addressed as follows:

Kim Smith  
C/O Renewal Resident Mail  
P.O. Box 23457  
Pittsburgh, PA 15222-6475  
(on Friday, April 23, 2004)

Service by ECF:

Robert G. Hanna Jr., Esquire

/s John J. Talaber  
John J. Talaber  
Assistant Counsel

PA Department of Corrections  
55 Utley Drive  
Camp Hill, PA 17011  
(717) 731-0444  
Dated: April 22, 2004